HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 21325 of 2002

Dated: 28-11-2007

Between:

Chakali Sathaiah

..... PETIT

AND

The Government of Andhra Pradesh,
Municipal Administrative Department
Rep., by its Secretary,
Hyderabad and another.

.....RESPONI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 21325 of 2002

O R D E R:

This writ petition is filed for a writ of Mandamus to declare the alleged oral instructions/threat to the petitioner by respondent No.2 to pay the arrears of market fee as illegal.

A perusal of the averments contained in the affidavit filed in support of the writ petition and the material on record show that open auction was conducted on 17-04-2001 and the petitioner, who offered highest bid of Rs.1,65,000/-, was awarded with the contract for collection of market fee in Miyapur market from
01-04-2001 to 31-03-2002. The present writ petition is filed apprehending that the respondent may take coercive steps to recover certain arrears payable under instalments by the petitioner. The petitioner averred in his affidavit that he is precluded from collecting the market fee on everyday but from proceedings dated 03-05-2001 it is evident that the petitioner is permitted to collect fee only on every Tuesday. In view of this illegal action, the petitioner is disabled to pay the balance amount of arrears.

From the prayer made in this writ petition, it is clear that the petitioner has not questioned proceedings dated 03-05-2001. Whether the petitioner is liable to pay the arrears, if he is not permitted to collect fee everyday or not are all issues, which could have been decided if the petitioner had questioned proceedings dated 03-05-2002. Since the petitioner failed to question the said proceedings, they cannot be gone into in the present writ petition as it is conceived. However, as could be seen from the affidavit, the petitioner made a representation to respondent No.2 on
08-05-2001.

This writ petition is, therefore, disposed of directing the respondent No.2 to dispose of representation dated 08-05-2001 within a period of four weeks and till then no coercive steps shall be taken to recover the arrears.

C.V.NAGARJUNA REDDY,J

Date: 28-11-2007
KLP